

TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No. 3025
NE1.008 Image

In Re Application Of: Thomas A. Findley

Serial No.
10/782,023

Filing Date
02/18/2004

Examiner
Nicholas Rosen

Group Art Unit
3625

Invention:

Device for Selectively Blocking Remote Purchase Requests

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on: 02/18/2004

Applicant is a small entity under 37 CFR 1.9 and 1.27.

Verified statement of small entity status under 37 CFR 1.27:

- ☐ is enclosed.
- ☒ has already been filed in this application.

The fee for filing this Appeal Brief is: \$165.00

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
- ☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No.

Timothy E. Lane
Signature

Dated: 04/16/2004

I certify that this document and fee is being deposited on 04/16/2004 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Mari Yamamoto
Signature of Person Mailing Correspondence

Mari Yamamoto

Typed or Printed Name of Person Mailing Correspondence

cc: Thomas A. Findley



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

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Applicant: Thomas A. Findley **Art Unit:** 3625
Serial No.: 10/782,023 **Examiner:** Rosen, Nicholas
Filing Date: 02/18/2004 **Docket:** NE1.008
Title: DEVICE FOR SELECTIVELY BLOCKING
REMOTE PURCHASE REQUESTS

APPEAL BRIEF

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Date: 04/16/2004

Board of Patent Appeals and Interferences
Washington, D.C. 20231

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Thomas Findley,)
Appellant)
vs.)
United States Patent Office,)
Appellee.)

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APPEAL BRIEF
UNDER 37 CFR 1.191

Introduction:

This Appeal Brief is submitted in triplicate and is accompanied by the fee set forth in 37 CFR 1.17(c). This Appeal Brief is filed on April 16, 2004. All claims under Appeal have been twice rejected.

Real Party in Interest:

The Real Party in Interest is Network Sciences, Inc., an Oregon Corporation, of which Thomas Findley, a resident of Portland, Oregon, is president.

Related Appeals and Interferences:

There are no related Appeals or Interferences known to Appellant.

Status of the Claims:

The claims have all been twice rejected in the parent case, first on October 9, 2002 and then again on November 25, 2002.

Status of the Amendments:

No amendment has been filed. The present claims were twice rejected in the parent case.

Summary of the Invention:

The present invention is a method for partially verifying the legitimacy of a remote purchase request based on a card number from a card issuing financial institution. The method includes receiving and storing a first purchase request information set including an origin and a card number (block 114). Further, the origin and the card number

are sent to the card issuing financial institution to determine if the origin matches an origin on file for the card number at the card issuing financial institution (block 126).

5 Issues:

1. Are claims 1-3 rendered obvious under 35 USC §103 by U.S. Patent 6,095,413 (Tetro) in view of U.S. Patent 5,862,220 (Perlman)?

10 Grouping of Claims:

Claims 1-3 form a single group insofar as they all stand rejected for obviousness under 35 USC §103.

Argument:

15 Claims 1 through 3 stand rejected under 35 USC 103 over Tetro in view of Perlman. The combination of Tetro and Perlman, however, does not yield the method of claim 1. Indeed, there is no suggestion, in either Tetro or Perlman, though both of these patents address remote sales fraud prevention, of
20 determining whether an electronic origin is associated with a credit card number. Tetro does not address the electronic origin. Perlman only associates the electronic origin with the expected ANI of a "customer box." (Perlman, page 13, line 37-39). Perlman's "customer box" is a physical box that is
25 electrically associated with a television set, a television cable and a telephone line. There is no indication that a customer name or street address is associated with this box. In fact, the geographical location of the box is estimated by its network address and/or the telephone number associated with the
30 box (Perlman, column 13, lines 12-25). This indicates that Perlman's box is not associated with a specific address, because if it were it would not be necessary to estimate its location.

Accordingly, there would be no way to match the customer box information with credit card information. Nor could the box of Perlman be thought of as in any manner serving a similar function to that of a credit card. When Perlman discloses using the box to make a purchase, the purchase is made by use of a credit card (col 13, lines 29-38). This would not be necessary if the box of Perlman replaced the function of a credit card.

Accordingly, the only fraud Perlman's method would prevent is that caused by a change in location of the "box" from one telephone line to another, by theft of the box or, perhaps, because it had been lent to a friend or moved to the user's new dwelling. A thief could use the Perlman box connected to Perlman's system, and a stolen credit card to buy an item from a merchant who was protected by the Tetro method without the

merchant being notified that the electronic origin of the purchase request did not match any electronic origin associated with the credit card used. Moreover, and perhaps of greater import, if a prospective customer were to attempt to buy an expensive item from a merchant from whom he had never purchased before, the merchant might decline the purchase and lose a lucrative sale because he had no assurance that the electronic origin was associated with the credit card used, even though the prospective purchaser was using his own credit card and his own Perlman box (WebTV), from his own home. Even if the merchant was notified that the box was connected to its designated telephone line there would

be no reassurance that a thief had not gained access to that box, either because he had signed up for WebTV, was a guest at the box owner's house or a roommate of the box owner. An enterprising thief could sign up for WebTV with false name information, make many purchases with stolen card numbers, and then move and disassociate himself from the telephone number

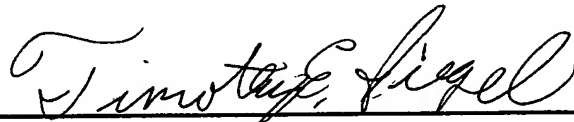
used before his theft became apparent. With the method of the present invention, the thief would have to gain access to a telephone line or Internet address matching a card number, greatly complicating his task.

5 Moreover, although the Perlman method requires a box that is connected to a telephone line and some other remote access network, the method of the present invention is applicable to any credit or debit card remote purchase made via the Internet or telephone line, without any great complication.
10 Accordingly, the present invention, with its broad and easy applicability, is in no way suggested by the very different teachings of Perlman regardless of how one would attempt to combine the Perlman teachings with those of Tetro.

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Respectfully submitted,

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